IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	4:02CR3121
	)	
Plaintiff,	)	
	)	**MEMORANDUM**
vs.	)	**AND ORDER**
	)	
PABLO FAVELA-CORRAL,	)	
	)	
Defendant.	)	

Defendant, Pablo Favela-Corral, has filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 (filing 172),[1] claiming that his sentence is unconstitutional. An earlier § 2255 motion by Defendant (filing 154) was denied by this court on January 5, 2006, (filings 155 & 156) and the Eighth Circuit recently denied Defendant's application for a certificate of appealability regarding that ruling (filings 165, 167 & 171).

The Antiterrorism and Effective Death Penalty Act of 1996 imposed procedural requirements on federal prisoners, like Defendant, who wish to file a second or successive motion to vacate their sentences. Thus, § 2255 provides that a second or

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[1] This matter is before the court for initial review, pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts, which provides:

> The judge who receives the motion must promptly examine it. If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion and direct the clerk to notify the moving party. If the motion is not dismissed, the judge must order the United States attorney to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

successive motion may not be filed without prior appellate court approval in the manner provided in 28 U.S.C. § 2244. Because Defendant's motion has not been certified by the United States Court of Appeals for the Eighth Circuit, as required by § 2255, it must be denied. Judgment will be entered accordingly.

IT IS ORDERED:

1.   Defendant's § 2255 motion (filing 172) is denied;

2.   Judgment shall be entered by separate document.

November 16, 2006.   BY THE COURT:

                                      s/ *Richard G. Kopf*
                                      United States District Judge

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